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### **REMARKS**

Claims 1-6 are now pending in this application. Claims 1-3 and 5 have been amended. Applicant respectfully submits no new matter has been added. Reconsideration is respectfully requested in view of the following remarks.

The Examiner objected to the specification and claim 1 due to some minor informalities. Applicant has amended the specification and claim 1 as set forth above in order to address the Examiner's comments. Withdrawal of this objection is therefore respectfully requested.

Claims 3-5 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claims 1, 2, 6 and 7 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent 2,675,088 to McLeod (McLeod) in view of U.S. Patent No. 5,765,257 to Steger et al. (Steger).

Claims 3-5 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,765,257 to Lallement in view of Steger.

### **112 Rejection**

The Examiner stated that the phrase, "in strategically located areas" in claim 3 renders claims 3-5 indefinite. As set forth above, claim 3 has been amended to address the Examiner's comments and now obviates this rejection. Withdrawal is therefore respectfully requested.

### **103 Rejection based on McLeod and Steger**

#### **McLeod**

McLeod relates to a muffler that includes an inlet pipe and an outlet pipe coaxially arranged

within an outer housing, where the inner ends are surrounded by a sleeve. The sleeve connects the inlet and outlet pipes, and provides for air flow into the sleeve, through the outer housing, back into the sleeve and out of the outlet pipe. Perforations are randomly shown along the entire length of both the inlet and outlet pipes.

### Steger

Steger relates to a muffler design for vacuum cleaners and other products that absorbs and dampens while also diverting noise emanating from the exhaust of the vacuum cleaner. The Steger muffler includes a muffler body, a noise adapting element and a separate cover. The noise dampening element is received within the muffler body 3 and a separate cover 7 is then assembled relative to the muffler body for trapping and holding the noise dampening element within the muffler body. The Steger muffler absorbs noise that travels through a smaller hollow shaft into the muffler body and then diverts the noise upon a traverse in wall in an opposite direction through the open end of the muffler body. After the noise is dampened, the noise dampening element turns and diverts the exhaust in a 180 degree reverse path through the open end 11 of the muffler body 3.

The Examiner states that McLeod teaches a noise reduction system that comprises a main housing, a first baffle and a second baffle with an air outlet and a connecting sleeve coupling the first baffle to the second baffle. The Examiner further states that McLeod fails to teach an exhaust housing coaxially coupled to the exhaust end of the second baffle, noise reduction foam connected to the inside wall of the main housing and an inside of the exhaust housing where the muffler is used with a vacuum generating device. The Examiner cites to Steger for teaching a muffler for a vacuum generating device that comprises the exhaust housing coaxially coupled to the exhaust end of a vacuum device. The Examiner also states that Steger teaches a noise reduction foam connected to the inside wall of the housing where the muffler directs the air 180 degrees within the exhaust housing for exhaust purposes. The Examiner essentially states that it would have been obvious to

combine McLeod and Steger in order to achieve the subject matter of the present invention.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Initially, amended claims 1, 2 and 3 now recite a plurality of uniformly spaced apertures concentrated at the coupled end of each baffle. The apertures of each baffle is shown in Figure 3 are uniformly spaced surrounding the entire surface of each baffle. The apertures are also limited to the area in proximity to the connecting sleeve. The positioning of the apertures assist in the movement of air through the baffles. In contrast, McLeod shows a group of randomly positioned perforations that merely allow the gases to expand or egress. Figure 2 of McLeod shows that the majority of the air flows through the pipe 10 deflects off the inner wall of the sleeve 18 into the outer housing and transfers out of pipe 12 after re-entering the sleeve 18 on the other side of wall 19. The present invention however shows an air flow from apertures 40a through apertures 44a where the connecting sleeve is used solely for connecting baffles 40 and 44. The concentration and uniform configuration of apertures 40a and 44a enable the air flow as shown in Figure 2. McLeod fails to teach or suggest a plurality of apertures that enables an airflow as recited in claims 1, 2 and 3. Therefore, if even one skilled in the art would combine McLeod and Steger, one would not achieve the subject matter of the present invention.

Also pertinent to this rejection, in order to combine McLeod and Steger to support a rejection of the claims of the present invention, a teaching and suggestion to combine McLeod and Steger to achieve the subject matter of the present invention is necessary. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. In re Fritch, 972 F.2d 1260, 23 U.S.P.Q.2d 1780, 1783-84 (Fed. Cir. 1992).

As stated above, McLeod relates to a muffler system for an exhaust to be used in an internal

combustion engine. McLeod teaches the use of an inlet pipe, an outlet pipe within a housing and a sleeve coupling the pipes as an exclusive means to muffle exhaust of the engine. In contrast, Steger teaches a muffler for exclusive use with a vacuum cleaner. Steger discusses a noise dampening device for a vacuum cleaner system without any teaching or suggesting of combining it with any other muffler system, especially a muffler used on an internal combustion engine. Furthermore, the placement of a closed muffler as taught in Steger upon the outlet pipe of an engine muffler as taught in McLeod is essentially counterintuitive. An efficient engine requires a fluid exhaust flow, otherwise the engine stalls or diminishes in performance. A replacement of a closed muffler system as taught in Steger upon the outlet pipe of the engine muffler taught in McLeod would therefore be an impractical combination for use with an internal combustion engine. Also such a combined muffler system would be impractical and unnecessary for a vacuum cleaner. Accordingly, McLeod and Steger inherently teach away from combining them in order to achieve the subject matter of the present invention. McLeod discusses a muffler for use with an internal combustion engine and Steger, in contrast, discusses a muffler for a vacuum cleaner.

Furthermore, claim 3 recites that the exhaust air cools the turbine and the turbine motor. Steger fails to teach or suggest such a function in regard to the muffler it discloses. The Steger muffler is solely used for noise reduction and, therefore, lacks any teaching or suggestion of a cooling feature as recited in the present invention.

Based upon the foregoing, initially, simply the combination of McLeod and Steger lacks to disclose all the features as recited in the present claims 1, 2 and 3. Furthermore, neither McLeod nor Steger teaches or suggests the combination thereof in order to achieve the subject matter of the present invention. It is therefore respectfully submitted that the combination of McLeod and Steger fails to render the subject matter of the present invention obvious. Applicant respectfully requests withdrawal of this rejection based on the foregoing.

**103 Rejection based on Lallement and Steger**

**Lallement**

Lallement relates to a suction device for holding a stack of sheet material on a cutting table of an automatic cutting machine. The Lallement suction device includes a turbine provided with a suction air inlet circuit level, where the cutting zone for suction and for the purpose of holding the stack on the table. The air exhaust circuit is driven by an electric motor having a fan and an air outlet duct. The suction device of Lallement shows where a turbine is provided with an air inlet circuit and an air exhaust circuit driven by an electric motor fitted with a fan. The assembly generates sufficient suction at the top face of the cutting table in order to hold the stack of sheet material in place.

The Examiner states that Lallement teaches a noise reduction system for use with a vacuum generating device that includes an air turbine to reduce noise generated by the exhaust from the air turbine when used with the cutting table. The Examiner states that the Lallement system includes an air turbine with an exhaust duct having an inlet opening for receiving air into the baffle from the air turbine exhaust and an input to prevent air from flowing out of the end of the baffle.

Initially, Applicant respectfully submits that Lallement fails to teach, disclose or describe a baffling configuration as recited in claim 3. As stated above, claim 3 now recites a plurality of uniformly spaced apertures that cover a portion of each baffle and allows for air flow through the first noise reduction configuration. The Examiner apparently cites to Lallement for its use in conjunction with a turbine. However, Lallement is directed toward a suction device for holding a stack of sheet material on a cutting table. Lallement lacks any disclosure of a noise reduction system as recited in claim 3. Furthermore, the Lallement is strictly directed toward the use of the system for holding a stack of sheet material on a table as opposed to the muffler system taught in

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Steger for a vacuum cleaner. Accordingly, both Lallement and Steger lack any teaching or suggestion that combine them in order to achieve the subject matter of the present invention. Based on the foregoing, the combination of Lallement and Steger does not render claims 3 through 5 obvious. Applicant respectfully requests withdrawal of this rejection.

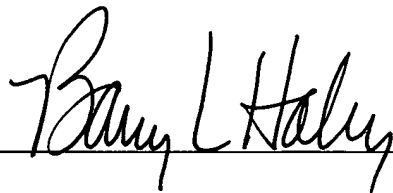
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### CONCLUSION

Based upon the foregoing amendment and remarks, Applicant respectfully submits that the pending claims are in condition for allowance. Prompt allowance of all pending claims is therefore requested.

If there are any additional charges, including Extensions of time, please bill our Deposit Account No. 13-1130.

Respectfully submitted,

A handwritten signature in cursive script, reading "Barry L. Haley", is written over a horizontal line.

Barry L. Haley, Reg. No. 25,339  
Malin, Haley & DiMaggio, P.A.  
1936 S. Andrews Avenue  
Fort Lauderdale, Florida 33316  
(954) 763-3303